IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1711 OF 2004
(For condonation of delay)
IN
CRIMINAL APPEAL NO. 517 OF 2004

The State of Maharashtra Applicant

vs.

Bhagwan Namdeo Patil & ors. Respondents

Smt.V.R.Bhonsale, APP for the State.

CORAM : R. M. LODHA &
R. S. MOHITE,JJ.

DATED : 1st February 2005

P.C.

Heard Smt.V.R.Bhonsale, the learned APP and perused the criminal application seeking condonation of delay.

2. By the judgment dated 17.07.2003, the learned Additional Sessions Judge, Alibag acquitted the present respondents of the offences punishable under Sections 407, 324, 504, 506 read with Section 34 of Indian Penal Code though they have been convicted for the offences punishable under Sections 452, 323, 325 read with Section 34 of the Indian Penal Code. The State is aggrieved by the aforesaid judgment to the extent the present respondents have been acquitted of the offences punishable under Sections 407, 324, 504, 506 read with Section 34 of the Indian Penal Code and preferred an

appeal against the order of acquittal on 12.04.2004. The Criminal Appeal was lodged on 12.04.2004. It suffers from delay of 157 days and hence the present application for condonation of delay.

3. The application for certified copy was made on 12.11.2003 and delivered on 08.12.2003. The concerned Public Prosecutor forwarded the papers to the Law and Judiciary Department on 18.12.2003 advising that the matter was fit for filing an appeal. The Law and Judiciary Department scrutinised the papers and vide resolution dated 03.01.2004 asked the Public Prosecutor, High Court, Mumbai to prefer an appeal against the judgment of acquittal. The said resolution was received by the office of the Public Prosecutor, High Court, Appellate Side, Mumbai on 05.01.2004 and the appeal came to be filed on 12.04.2004.

4. The facts indicated above would show that though the impugned judgment was passed on 17.07.2003, the application for certified copy was made on 12.11.2003. By that time, the limitation for filing the appeal had already expired. There is no explanation as to why the application for certified copy could not be made in time. There is also no explanation as to why the concerned Public Prosecutor took more than five months

in recommending to the Law and Judiciary Department for filing the appeal. Besides that we find that after the resolution was received by the Public Prosecutor, High Court, Appellate Side, Mumbai on 05.01.2004, the appeal was preferred more than three months thereafter. The vague and stereotype explanation that it was due to heavy workload, pressure of work and non-availability of stenographers hardly makes out sufficient cause.

5. The delay is, thus, not sufficiently explained.

6. Criminal application for condonation of delay is rejected.

(R.M. LODHA,J.)

(R.S. MOHITE,J.)